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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/677,998	10/02/2003	Larry A. Davies	29554/04002	9247
24024	7590	01/31/2005		
CALFEE HALTER & GRISWOLD, LLP 800 SUPERIOR AVENUE SUITE 1400 CLEVELAND, OH 44114			EXAMINER GUTMAN, HILARY L	
			ART UNIT	PAPER NUMBER
			3612	

DATE MAILED: 01/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/677,998

Applicant(s)

DAVIES ET AL.

Examiner

Hilary Gutman

Art Unit

3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 04 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 21-23 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6-14 and 17 is/are allowed.
- 6) ☒ Claim(s) 1,2,15,16 and 18-20 is/are rejected.
- 7) ☒ Claim(s) 3-5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8/5/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 21-23 are hereby withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 10/4/04.
2. Applicant's election with traverse of species A in the reply filed on 10/4/04 is acknowledged. The traversal is on the ground(s) that no serious burden would befall the examiner. This is not found persuasive because the additional searching for the separate invention and examiner would the additional claims would be required and would place a serious burden on the examiner.

The requirement is still deemed proper and is therefore made FINAL.

### ***Drawings***

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the rail car, air cargo hold, boat cargo hold, cargo container for air transport, ocean transport, or rail transport of claim 1; the rod lock, cable tie, cable seal, bolt seal, lead and wire seal, or combination thereof of claim 6; and the means for identifying the at least one lock and means for verifying the lock has not been unlocked, removed, or breached of claim 19 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

#### *Specification*

4. The disclosure is objected to because of the following informalities:

On page 6, [0024], lines 7 and 8, “bars 34, 40” should apparently be “bars 32, 40” in both occurrences. Appropriate correction is required.

#### *Claim Objections*

#### *Claim Rejections - 35 USC § 112*

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With regard to claim 19, the “means for identifying” and the “means for verifying” are recited but are unclear as to what specific feature the applicant intends to recited. Furthermore, it should be noted that if one employs means plus function language in a claim, one must set forth in the specification an adequate disclosure showing what is meant by that language. If an applicant fails to set forth an adequate disclosure, the applicant has in effect failed to particularly point out and distinctly claim the invention as required by the second paragraph of section 112.

*Claim Rejections - 35 USC § 102*

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-2, 15-16, and 18-20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Page.

Page (1,052,747) discloses a container for transporting cargo in a secured manner, comprising:

- a. a first wall, a second wall, a top, and a bottom;
- b. a temporary divider (Figure 1) selectively located in the container for separating the container into at least a first compartment and a second compartment; and at least one lock

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(Figure 3) for securing the temporary divider against unauthorized removal; wherein access to the cargo in the first compartment is prevented without first removing the at least one lock and the temporary divider, while access to cargo in the second compartment is unaffected by the at least one lock and the temporary divider.

With regard to claim 2, the container comprises a rail car.

For claim 15, Page discloses a container for transporting cargo, comprising at least a first and a second compartment, wherein at least the first compartment is secured by separately locking it from the second compartment for secure transportation of cargo therein and access to the second compartment is available without unlocking the first compartment.

With regard to claim 16, a temporary divider is further provided for dividing the container into the first compartment and the second compartment and at least one lock cooperating with the temporary divider to separately lock the first compartment from the second compartment.

For claim 18, Page inherently discloses a method for transporting secured cargo in a container having a first end, comprising

- a. loading cargo into the first end of the container;
- b. erecting a barrier (Figure 1) such that the barrier and the first end define a compartment containing the cargo, the compartment having a smaller volume than the container;
- c. locking the barrier (Figure 3) to create a locked compartment, the cargo therein being secured cargo; and
- d. transporting the container to a destination without removing, transferring, or handling the secured cargo in the locked compartment.

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For claim 19, Page inherently discloses a cargo control system for transporting cargo, comprising

- a. a container,
- b. material (Figure 1) for constructing a removable bulkhead to be placed within the container to define a compartment having a volume smaller than the volume of the container;
- c. at least one lock (Figure 3) for locking the removable bulkhead;
- d. means (such as the eyes of an operator or cargo control system user) for identifying the at least one lock;
- e. means (such as the eyes viewing spilt cargo) for verifying that the at least one lock has not been unlocked, removed, or breached during transport of the container.

For claim 20, Page inherently discloses a method for providing for the secure transport of a consignor's cargo from an origin, comprising

- a. placing the consignor's cargo into a container;
- b. positioning the container with a removable, lockable divider such that the consignor's cargo is located in a compartment within the container having a smaller volume than the volume of the container;
- c. locking the removable, lockable divider with a lock such that the compartment is a secured compartment;
- d. enabling non-secured cargo to be placed into the container outside of the secured compartment;
- e. transporting the consignor's cargo in the secured compartment, without allowing access to the cargo in the secured compartment, to a destination specified by the consignor.

*Allowable Subject Matter*

9. Claims 6-14 and 17 are allowed.
10. Claims 3-5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
11. The following is a statement of reasons for the indication of allowable subject matter: the primary reason for the indication of allowable subject matter for the claims in this case is the inclusion of the specific first and second bars and the positioning of the bars with respect to the bulkhead included in dependent claim 3 and independent claims 6 and 17 in combination with the other elements recited which is not found in the prior art or record.

*Conclusion*

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hilary Gutman whose telephone number is 703-305-0496.  
  
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 703-308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

14. **Any response to this action should be mailed to:**

Assistant Commissioner for Patents

Washington, D.C. 20231

**or faxed to:**

(703) 872-9326, (for formal communications intended for entry)

**or:**

(703) 746-3515, (for informal or draft communications, please clearly label

“PROPOSED” or “DRAFT”).



Hilary Gutman  
January 21, 2005